

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 139 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

SUDHIR INDRAVADAN NANAVATI

Versus

STATE OF GUJARAT

Appearance:

NANAVATI ASSOCIATES for Petitioner

MR KP RAVAL, APP for Respondent No. 1

NOTICE SERVED for Respondent No.2 and Mr.Mihir Thakker
appeared

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 06/04/99

C.A.V. JUDGEMENT

Present respondent No.2-original complainant had filed one criminal case No.173 of 1996 against the present petitioners and other six persons for which Court below has issued the process. Against that, present

petitioners-original accused has filed the present proceedings under sec.482 of Cr.P.C. for quashing and setting aside the complaint and proceedings issued by the Addl. Chief Metropolitan Magistrate, Ahmedabad in Criminal Case No.173 of 1996 mainly on the ground that the present petitioner is one of the Directors of the Company, who has nothing to do with the day-to-day affairs of the Company and not in charge of the management of the Company and not directly or indirectly deal with the complainant-respondent and for the same facts, complainant has filed civil suit in the City Civil Court and also taken out Notice of Motion and same are pending in the Court and dispute between the parties are of civil nature.

2. I have heard learned counsel for the respective parties and also gone through the complaint which has shown to me by the learned counsel for the petitioners. The petitioner is a practising advocate and it is his main vocation. Incidentally, he might have accepted Directorship, but merely he is a formal Director, no process can be issued against him unless specific allegation has been made against him in the complaint or prima-facie ingredients of the offence has been established against him. Here in this case, it is established from the complaint itself that, though the present petitioner has been named as an accused in the said complaint, neither there is specific allegation made nor prima-facie ingredients of the offence established from the said complaint against the petitioner. It seems that he has been joined as an accused in the said proceedings merely because he is a formal Director in the Company. In absence of any specific averments or ingredients in the complaint against the petitioner, the process issued against the petitioner requires to be quashed. Learned counsel for the respondent No.2 has also failed to show any ingredients in the complaint against the present petitioner and, therefore, without entering into further details, i.e. whether there is a civil dispute or not because other Criminal Misc. Applications are pending in the Court and if I observe anything in the matter, it will affect the rights of the parties and, therefore, I accept the request made by the learned counsel for the respective parties.

3. In the result, this Criminal Misc. Application is allowed. The complaint and the proceedings in Criminal Case No.173 of 1996 filed against the petitioner before the Addl. Chief Metropolitan Magistrate, Ahmedabad is hereby quashed and set aside. Rule is made absolute.

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